

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**DAVID BAGLEY, RAMONA BAGLEY,
and ANGEL FIRE WATER CO.,**

Plaintiffs,

vs.

No. CIV 06-1101 RB/RHS

**PAUL COSTA, THE SPENCER GROUP
INTERNATIONAL, JACK FERM and the
LAW OFFICE OF JACK FERM,**

Defendants.

ORDER OF DISMISSAL WITHOUT PREJUDICE


THIS MATTER came before the Court on Petitioners' [sic] Supplemental Memorandum Regarding Service of Process (Doc. 28), filed on May 4, 2007. In a Memorandum Opinion and Order issued on February 8, 2007, I determined that Defendants Paul Costa and Jack FERM had not been properly served and ordered Plaintiffs to effect service, or show good cause why all Defendants had not been served, by March 13, 2007. I specifically warned Plaintiffs that failure to serve Defendants, as required by Fed. R. Civ. P. 4, would result in dismissal of this action without prejudice.

On March 28, 2007, at Plaintiffs' request, I extended the deadline to April 30, 2007, and again warned Plaintiffs if they failed to effect service by that date, the Complaint would be dismissed without prejudice as to any Defendant who was not properly served by that date.

On March 9, 2007, Plaintiffs filed returns of service indicating Jack FERM, the Law Office of Jack FERM and The Spencer Group International were served by certified mail. No separate return

of service was filed with respect to Paul Costa. Nothing in the record indicates that Plaintiffs complied with the requirements of Rule 4 concerning waiver of service. *See* Fed. R. Civ. P. 4(d). In that Plaintiffs failed to properly serve any Defendant by April 30, 2007, the Complaint is hereby dismissed without prejudice.

IT IS ORDERED.



ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE